

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CRIMINAL JURISDICTION

CRIMINAL WRIT PETITION NO.1194 OF 2000

Mr.Ratnakar Gaikwad

Petitioner

versus

1. Adv.Bhai Vivek Chavan...

Respondents

WITH CRIMINAL WRIT PETITION NO.1171 OF 2000

Dattatray Marutrao Gaikwad

.. Petitioner

versus

Adv.Bhai Vivek Chavan & anr .. Respts

WITH WRIT PETITION NO. 1213 OF 2000

1.The Commissioner of Police,

Pune & ors

..Petitioners

Mr.R.G.Ketkar,Advocate for Petitioner

Ms.S.R.Borulkar, P.P.for Respondents

CORAM : J.N.PATEL AND

SMT.ROSHAN DALVI, JJ

DATED : 17th October, 2006

COMMON ORDER

P.C.

1. Heard. Learned counsel for the petitioner submits that the petition be restored as it came to be dismissed before he could reach the Court.

Petition is restored.

2. For the purpose of disposal of these petitions, it is not necessary to issue notices to the respondents (Orig.Complainant) as our order does not in any manner prejudice the complainant.

3. The petitioners have approached this Court for seeking quashing of the Criminal M.A.No. 70 of 2000 filed by the Ist respondent in the Court of J.M.F.C.Pune against the petitioner and others for having committed offences under section 304 (II) read with section 34 IPC on the basis of the fact that the petitioners who were the Municipal Commissioner of Pune Municipal Corporation and Commissioner of Police due to their acts of omission and commission as they did not take necessary steps to enforce the terms of the

contract to provide safety and security to the citizens who were visiting the swimming pool for its use which belonged to the Municipal Corporation and given on contract to Aundh Sports Club, Pune. This fact relates to and arises out of the accidental death of one Ramesh Choudhari and another while using the swimming pool.

4. It is the contention of the petitioner that as the report in the matter is filed with the concerned police station and the matter is under investigation, the complaint case filed by the respondent no. 1 requires to be stayed as provided in sub-section (1) of section 210 of the Cr.P.C.1973.

6. The learned A.P.P. informs the Court that the police have concluded the investigation relating to both the incidents of accidental death and has filed the charge sheet before the Court of J.M.F.C.Pune.

7. In view of the fact that the police has filed the charge sheet on the basis of the police report lodged by the relatives of the deceased, the learned Magistrate is bound to try together the complaint case and the criminal case registered out

of police report as if both the cases were instituted on a police report as provided in sub-section (2) of section 210 of the Cr.P.C.1973.

8. We, therefore dispose of these petitions with a direction to the learned Magistrate to try the two cases as provided in sub-section (2) of section 210 of Cr.P.C.1973.

9. With these directions, these petitions stands disposed of accordingly.

(Smt R.S.Dalvi,J)

(J.N.Patel,J)